

## Change of placement

Fact pattern #1: Michael is a 16-year-old 10<sup>th</sup> grader with a disability. Michael engages in a fight with another student and receives a 5-day suspension. It is his first removal of the school year.

Fact pattern #2: Russ, a 15-year-old 10<sup>th</sup> grader with a disability, punches his classroom teacher in the face and receives a 15-day suspension.

Fact pattern #3: Jen is a 14-year-old 9<sup>th</sup> grader who is eligible to receive special education and related services under the disability category of emotional disability. Jen is caught spray painting a garbage can at school on September 4 and receives a 3-day suspension. On December 10, she overturns a fellow student's lunch tray in the cafeteria and receives a 4-day suspension. On March 31, Jen is caught smoking a cigarette on school grounds and receives a 5-day suspension. We're at 12 days of suspension in a school year – determine if a change of placement has occurred.

Fact pattern #4: David is an 11-year-old 6<sup>th</sup> grader who is eligible to receive special education and related services under the disability category of specific learning disability. On September 4, David overturns a fellow student's lunch tray in the cafeteria and receives a 3-day suspension. On September 16, David punches another student in the stomach when the child cuts in front of him in line for the water fountain and receives a 3-day suspension. On October 6, David receives an 8-day suspension for assaulting a teacher. We're at 14 days of suspension in a school year – determine if a change of placement has occurred.

## Manifestation determination

Brandon is a 14-year-old ninth grade student who is eligible to receive special education and related services under the disability categories of other health impairment (for ADHD) and specific learning disability for math reasoning.

Brandon is an average student who takes a mixture of traditional regular education classes and special education classes. He struggles to stay on task and to suppress his need to be the center of attention. He is in a resource English classroom daily because of the need for the structure, small student/teacher ratio, and behavior modification support that can be provided by a special education teacher. He also receives services in math reasoning in a co-taught math class daily.

Last week, Brandon wrote several classmates' names on the bathroom wall stating that they would all die three days later. You, the principal, are recommending a long term suspension and hold a manifestation determination.

The incident report generated following the incident reveals that after leaving the bathroom, Brandon was confronted by an adult hall monitor, who reported that Brandon appeared very nervous and was sweating profusely. When asked if everything was alright, Brandon became flustered and anxious and was escorted to the principal's office. In the principal's office, Brandon insisted he had done nothing wrong, but then broke down in tears saying he didn't want to get suspended or go to jail. He then took the principal to the bathroom and showed him the death threat he had written on the wall, which included the names of three male students and Brandon's own name.

During the manifestation determination meeting, Brandon's parents argue that his actions resulted from his ADHD, which prevents him from controlling his impulses. Brandon's English teacher tells the team that on the day of the incident, he asked for the bathroom pass during class and then left for approximately 15 minutes. The math teacher questions why Brandon was allowed to be gone from the English classroom for 15 minutes unsupervised.

## Special Circumstances

Josh is a 12-year-old 6<sup>th</sup> grader eligible to receive special education and related services under the disability category of autism. He is considered high-functioning, is very large and strong for his age, and has been known to act violently towards other students and teachers. Last week Josh had an “aggressive episode” – his teacher and aide attempted to de-escalate his behavior, but had to call you, the principal, to intervene when he became increasingly more agitated. When you got to the classroom, Josh was lying on the floor, throwing items, and otherwise reacting violently. You and the teacher attempted to physically restrain Josh by holding his legs down, but when you let go of his legs to make a cell phone call to the school resource officer, Josh lunged at you to take the cell phone away and kicked you in the knee. You report feeling a “sharp pain” but continued to attempt to restrain Josh. The SRO arrived and handcuffed Josh and later that day you filed assault charges against him in juvenile court.

You left school mid-day claiming your knee and shoulder hurt and you took three non-prescription painkillers at home, and iced and elevated your knee. Approximately three weeks later, you went to see the doctor where you received a cortisone injection, but refused a prescription for pain medication.

Josh received a 6-day suspension for the incident. You conducted a manifestation determination meeting and the team determined that the behavior was a manifestation of Josh’s disability. However, the team also determined that because he caused “serious bodily injury” he would be placed in a 45-day IAES.

## Protections for Children Not Yet Eligible

Emma is a 10-year-old 4<sup>th</sup> grader who is not currently eligible to receive special education and related services. In class today, two girls were sitting behind Emma whispering to each other. Believing they were talking about her, Emma picked up her pen, turned around, lunged at the girls, and threatened to stab them in their eyes. Emma was given a long-term suspension and you are considering expulsion.

Emma's English teacher has reported increasing concern about her escalating behavior and the impact it is having on her academic performance. Emma's parents have also expressed concern about her behavior and her inability to do her school work. They have sent several emails to Emma's teacher and you, the principal, asking you to "please get Emma the help she needs to succeed." Earlier in the school year, Emma's English teacher referred her to the school's social worker due to concerns about behavior. After meeting with Emma on a few occasions, the school social worker recommended that she undergo a mental health evaluation.

A month into the suspension, Emma's parents filed a request for a due process hearing, arguing that your school suspended Emma without first conducting a manifestation determination. You argue that no manifestation determination was required because Emma has not been determined eligible under the IDEA.

## Revocation of Consent

Sam is a 12-year-old 6<sup>th</sup> grader. In fifth grade, Sam was determined to be eligible to receive special education and related services under the disability category of emotional disability. In November of the current school year after a particularly contentious IEP team meeting, Sam's mother revoked consent for special education. It is now March and Sam has been long-term suspended for lighting a garbage can on fire on school grounds. Sam's mother has filed for due process, contending that the school had knowledge that Sam was a child with a disability and that he was entitled to a manifestation determination.